

On October 22, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed or delivered to charitable institutions.

M. L. WILSON, *Acting Secretary of Agriculture.*

23173. Misbranding of tea. U. S. v. 28 Cartons of Tea. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33078. Sample nos. 70206-A, 70254-A.)

This case involved a shipment of tea which was labeled "Orange Pekoe Tea", but which consisted of a mixture of East India tea and congou tea. Congou tea is not entitled to be labeled, "Orange Pekoe Tea."

On July 14, 1934, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cartons, each containing 12 half-pound packages of tea, at Elizabeth, N. J., alleging that the article had been shipped in interstate commerce, on or about May 11, 1934, by the Consolidated Tea Co., Inc., from New York, N. Y., and charging misbranding in violation of the Food and Drugs Act. The article was originally labeled, "American House Ceylon Tea Fancy Orange Pekoe and Pekoe", but over the words "Ceylon Tea Fancy Orange Pekoe and Pekoe", and completely covering them had been pasted a sticker bearing in prominent letters the words, "Orange Pekoe Tea."

The article was alleged to be misbranded in that the statement on the package, "Orange Pekoe Tea", was false and misleading and tended to deceive and mislead the purchaser, and for the further reason that it was offered for sale under the distinctive name of another article, "Orange Pekoe Tea."

On October 30, 1934, the Consolidated Tea Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled, "Java and China Tea."

M. L. WILSON, *Acting Secretary of Agriculture.*

23174. Adulteration and misbranding of tomato paste. U. S. v. 618 Cases of Tomato Paste. Product ordered released under bond for re-labeling. (F. & D. no. 33122. Sample no. 63332-A.)

This case involved a shipment of tomato paste which was labeled to convey the impression that it was of foreign origin and had been manufactured from Italian type pear-shaped tomatoes, but which consisted of tomato paste of domestic manufacture, made from round tomatoes.

On July 30, 1934, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 618 cases of tomato paste at New York, N. Y., alleging that the article had been shipped in interstate commerce, on or about June 29, 1934, by the Harbor City Food Corporation, of Harbor City, Calif., from Los Angeles, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Dias Brand Tomato Paste * * * [design of pear-shaped tomatoes] Salsa di Pomodoro * * * Sclafani Bros. Brooklyn, N. Y., Distributors."

The article was alleged to be adulterated in that a domestically manufactured tomato paste, made from ordinary round tomatoes, had been substituted for foreign tomato paste made from Italian type pear-shaped tomatoes.

Misbranding was alleged for the reason that the article purported to be a foreign product when not so, and for the further reason that the design of Italian pear-shaped tomatoes, borne on the label, was false and misleading when applied to tomato paste made from round tomatoes.

On October 16, 1934, Sclafani Bros., Brooklyn, N. Y., claimants, having admitted the allegations of the libel and having consented to the entry of a decree, judgment was entered ordering that the product be released to the claimants, under bond, conditioned that the labels be removed and that new correct labels be affixed.

M. L. WILSON, *Acting Secretary of Agriculture.*

23175. Misbranding of canned tomatoes. U. S. v. 149 Cases of Canned Tomatoes. Default decree of condemnation and destruction. (F. & D. no. 33125. Sample no. 2451-B.)

This case involved a shipment of canned tomatoes which were poor color and contained excessive peel. The product was labeled, "Fancy" and "Extra

